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No. 71

In the Supreme Court of the United States

OCTOBER TERM, 1950

INTERNATIONAL WORKERS ORDER, INC. AND ARTHUR LOWNDES DRAYTON, PETITIONERS

v.

J. HOWARD MCGRATH, INDIVIDUALLY AND AS ATTORNEY GENERAL OF THE UNITED STATES, ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MEMORANDUM FOR THE UNITED STATES

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This is the third in a series of cases filed last Term raising the same question with regard to the constitutionality of Executive Order 9835, 12 F. R. 1935, and Section 9A of the Hatch Act, 53 Stat. 1148, 5 U. S. C. Supp. II, 118j, as applied by Executive Order 9835. The petitions for writs of certiorari in the earlier cases were granted. *Joint Anti-Fascist Refugee Committee* v. *McGrath*, No. 8, this Term, certiorari granted on March 13, 1950; *National Council of American-Soviet Friendship, Inc.* v. *McGrath*, No. 7, this Term, certiorari granted on May 15, 1950. The

question involved in the instant case is, therefore, already before the Court. Moreover, the opinion of the court below rests on its decision in the *Joint Anti-Fascist Refugee Committee* case. Accordingly, the Court may deem it advisable to withhold action on the instant petition until the *Joint Anti-Fascist Refugee Committee* and the *National Council of American Soviet Friendship, Inc.* cases are decided, at which time final disposition could be made of the present case. See *e. g., Denham* v. *Munson Line,* 312 U. S. 650, held pending decision in *Reconstruction Finance Corporation* v. *Prudence Group,* 311 U. S. 579.

Respectfully submitted.

PHILIP B. PERLMAN,
Solicitor General.

JUNE 1950.

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